

Dauterman, Aaron

From: Dauterman, Aaron
Sent: Wednesday, January 10, 2018 4:31 PM
To: 'Robert Eshenbaugh (Reshenbaugh@capitoladvocates.net)'
Subject: Critical Infrastructure
Attachments: I_132_1049 Version 3.pdf

Hi Rob,

Attached is our final version of the language. Let me know if you have any questions or concerns. Per our conversation earlier, I anticipate dropping the language by Friday barring any snags.

Best,

Aaron T. Dauterman
Senior Legislative Aide
Office of State Senator Frank Hoagland
30th Senate District
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I_132_1049-3

132nd General Assembly
Regular Session
2017-2018

. B. No.

A BILL

To amend sections 2307.61, 2909.07, 2909.10,
2911.21, and 2911.211 of the Revised Code to
prohibit criminal mischief, criminal trespass,
and aggravated trespass on a critical
infrastructure facility, to impose fines for
organizations that are complicit in those
offenses, and to impose civil liability for
damage caused by trespass on a critical
infrastructure facility.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2307.61, 2909.07, 2909.10,
2911.21, and 2911.211 of the Revised Code be amended to read as
follows:

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Sec. 2307.61. (A) If a property owner brings a civil
action pursuant to division (A) of section 2307.60 of the
Revised Code to recover damages from any person who willfully
damages the owner's property, who damages the owner's property
while trespassing on a critical infrastructure facility, or who
commits a theft offense, as defined in section 2913.01 of the

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Revised Code, involving the owner's property, the property owner
may recover as follows:

(1) In the civil action, the property owner may elect to
recover moneys as described in division (A)(1)(a) or (b) of this
section:

(a) Compensatory damages that may include, but are not
limited to, the value of the property and liquidated damages in
whichever of the following amounts applies:

(i) Fifty dollars, if the value of the property was fifty
dollars or less at the time it was willfully damaged, was
damaged by trespass on a critical infrastructure facility, or
was the subject of a theft offense;

(ii) One hundred dollars, if the value of the property was
more than fifty dollars, but not more than one hundred dollars,
at the time it was willfully damaged, was damaged by trespass on
a critical infrastructure facility, or was the subject of a
theft offense;

(iii) One hundred fifty dollars, if the value of the
property was more than one hundred dollars at the time it was
willfully damaged, was damaged by trespass on a critical
infrastructure facility, or was the subject of a theft offense.

(b) Liquidated damages in whichever of the following
amounts is greater:

(i) Two hundred dollars;

(ii) Three times the value of the property at the time it
was willfully damaged, was damaged by trespass on a critical
infrastructure facility, or was the subject of a theft offense,
irrespective of whether the property is recovered by way of

replevin or otherwise, is destroyed or otherwise damaged, is 47
modified or otherwise altered, or is resalable at its full 48
market price. This division does not apply to a check, 49
negotiable order of withdrawal, share draft, or other negotiable 50
instrument that was returned or dishonored for insufficient 51
funds by a financial institution if the check, negotiable order 52
of withdrawal, share draft, or other negotiable instrument was 53
presented by an individual borrower to a licensee under sections 54
1321.35 to 1321.48 of the Revised Code for a loan transaction. 55

(2) In a civil action in which the value of the property 56
that was willfully damaged, was damaged by trespass on a 57
critical infrastructure facility, or was the subject of a theft 58
offense is less than five thousand dollars, the property owner 59
may recover damages as described in division (A)(1)(a) or (b) of 60
this section and additionally may recover the reasonable 61
administrative costs, if any, of the property owner that were 62
incurred in connection with actions taken pursuant to division 63
(A)(2) of this section, the cost of maintaining the civil 64
action, and reasonable attorney's fees, if all of the following 65
apply: 66

(a) The property owner, at least thirty days prior to the 67
filing of the civil action, serves a written demand for payment 68
of moneys as described in division (A)(1)(a) of this section and 69
the reasonable administrative costs, if any, of the property 70
owner that have been incurred in connection with actions taken 71
pursuant to division (A)(2) of this section, upon the person who 72
willfully damaged the property, trespassed on a critical 73
infrastructure facility, or committed the theft offense. 74

(b) The demand conforms to the requirements of division 75
(C) of this section and is sent by certified mail, return 76

receipt requested.

(c) Either the person who willfully damaged the property, trespassed on a critical infrastructure facility, or committed the theft offense does not make payment to the property owner of the amount specified in the demand within thirty days after the date of its service upon that person and does not enter into an agreement with the property owner during that thirty-day period for that payment or the person who willfully damaged the property, trespassed on a critical infrastructure facility, or committed the theft offense enters into an agreement with the property owner during that thirty-day period for that payment but does not make that payment in accordance with the agreement.

(3) A person or organization that compensates or repays a person for trespass on a critical infrastructure facility may be held vicariously liable for any judgment the property owner obtains against the person who trespassed on the facility.

(B) If a property owner who brings a civil action pursuant to division (A) of section 2307.60 of the Revised Code to recover damages for willful damage to property, for damage caused by trespass on a critical infrastructure facility, or for a theft offense attempts to collect the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees under authority of that division and if the defendant prevails in the civil action, the defendant may recover from the property owner reasonable attorney's fees, the cost of defending the civil action, and any compensatory damages that may be proven.

(C) For purposes of division (A)(2) of this section, a

written demand for payment shall include a conspicuous notice to 107
the person upon whom the demand is to be served that indicates 108
all of the following: 109

(1) The willful property damage, trespass on a critical 110
infrastructure facility, or theft offense that the person 111
allegedly committed; 112

(2) That, if the person makes payment of the amount 113
specified in the demand within thirty days after its service 114
upon the person or enters into an agreement with the property 115
owner during that thirty-day period for that payment and makes 116
that payment in accordance with the agreement, the person cannot 117
be sued by the property owner in a civil action in relation to 118
the willful property damage, trespass on a critical 119
infrastructure facility, or theft offense; 120

(3) That, if the person fails to make payment of the 121
amount specified in the demand within thirty days after the date 122
of its service upon the person and fails to enter into an 123
agreement for that payment with the property owner during that 124
thirty-day period or enters into an agreement for that payment 125
with the property owner during that thirty-day period but does 126
not make that payment in accordance with the agreement, the 127
person may be sued in a civil action in relation to the willful 128
property damage, trespass on a critical infrastructure facility, 129
or theft offense; 130

(4) The potential judgment that the person may be required 131
to pay if the person is sued in a civil action in relation to 132
the willful property damage, trespass on a critical 133
infrastructure facility, or theft offense and judgment is 134
rendered against the person in that civil action; 135

(5) That, if the person is sued in a civil action by the
property owner in relation to the willful property damage,
trespass on a critical infrastructure facility, or theft
offense, if the civil action requests that the person be
required to pay the reasonable administrative costs, if any, of
the property owner that have been incurred in connection with
actions taken pursuant to division (A)(2) of this section, the
cost of maintaining the action, and reasonable attorney's fees,
and if the person prevails in the civil action, the person may
recover from the property owner reasonable attorney's fees, the
cost of defending the action, and any compensatory damages that
can be proved.

(D) If a property owner whose property was willfully
damaged, was damaged by trespass on a critical infrastructure
facility, or was the subject of a theft offense serves a written
demand for payment upon a person who willfully damaged the
property, trespassed on a critical infrastructure facility, or
committed the theft offense and if the person makes payment of
the amount specified in the demand within thirty days after the
date of its service upon the person or the person enters into an
agreement with the property owner during that thirty-day period
for that payment and makes payment in accordance with the
agreement, the property owner shall not file a civil action
against the person in relation to the willful property damage,
trespass on a critical infrastructure facility, or theft
offense.

(E) If a property owner whose property was willfully
damaged, was damaged by trespass on a critical infrastructure
facility, or was the subject of a theft offense serves a written
demand for payment upon a person who willfully damaged the
property, trespassed on a critical infrastructure facility, or

committed the theft offense and if the person, within thirty 167
days after the date of service of the demand upon the person, 168
enters into an agreement with the property owner for the payment 169
of the amount specified in the demand but does not make that 170
payment in accordance with the agreement, the time between the 171
entering of the agreement and the failure to make that payment 172
shall not be computed as any part of the period within which a 173
civil action based on the willful property damage, trespass on a 174
critical infrastructure facility, or theft offense must be 175
brought under the Revised Code. 176

(F) A civil action to recover damages for willful property 177
damage, for trespass on a critical infrastructure facility, or 178
for a theft offense may be joined with a civil action that is 179
brought pursuant to Chapter 2737. of the Revised Code to recover 180
the property. If the two actions are joined, any compensatory 181
damages recoverable by the property owner shall be limited to 182
the value of the property. 183

(G) (1) In a civil action to recover damages for willful 184
property damage, for trespass on a critical infrastructure 185
facility, or for a theft offense, the trier of fact may 186
determine that an owner's property was willfully damaged or 187
damaged by trespass or that a theft offense involving the 188
owner's property has been committed, whether or not any person 189
has pleaded guilty to or has been convicted of any criminal 190
offense or has been adjudicated a delinquent child in relation 191
to any act involving the owner's property. 192

(2) This section does not affect the prosecution of any 193
criminal action or proceeding or any action to obtain a 194
delinquent child adjudication in connection with willful 195
property damage, trespass on a critical infrastructure facility, 196

or a theft offense. 197

(H) As used in this section: 198

(1) "Administrative costs" includes the costs of written 199
demands for payment and associated postage under division (A) (2) 200
of this section. 201

(2) "Value of the property" means one of the following: 202

(a) The retail value of any property that is offered for 203
sale by a mercantile establishment, irrespective of whether the 204
property is destroyed or otherwise damaged, is modified or 205
otherwise altered, or otherwise is not resalable at its full 206
market price; 207

(b) The face value of any check or other negotiable 208
instrument that is not honored due to insufficient funds in the 209
drawer's account, the absence of any drawer's account, or 210
another reason, and all charges imposed by a bank, savings and 211
loan association, credit union, or other financial institution 212
upon the holder of the check or other negotiable instrument; 213

(c) The replacement value of any property not described in 214
division (H) (1) or (2) of this section. 215

(3) "Critical infrastructure facility" has the same 216
meaning as in section 2911.21 of the Revised Code. 217

(4) "Organization" has the same meaning as in section 218
2901.23 of the Revised Code. 219

Sec. 2909.07. (A) No person shall: 220

(1) Without privilege to do so, knowingly move, deface, 221
damage, destroy, or otherwise improperly tamper with either of 222
the following: 223

(a) The property of another; 224

(b) One's own residential real property with the purpose 225
to decrease the value of or enjoyment of the residential real 226
property, if both of the following apply: 227

(i) The residential real property is subject to a 228
mortgage. 229

(ii) The person has been served with a summons and 230
complaint in a pending residential mortgage loan foreclosure 231
action relating to that real property. As used in this division, 232
"pending" includes the time between judgment entry and 233
confirmation of sale. 234

(2) With purpose to interfere with the use or enjoyment of 235
property of another, employ a tear gas device, stink bomb, smoke 236
generator, or other device releasing a substance that is harmful 237
or offensive to persons exposed or that tends to cause public 238
alarm; 239

(3) Without privilege to do so, knowingly move, deface, 240
damage, destroy, or otherwise improperly tamper with a bench 241
mark, triangulation station, boundary marker, or other survey 242
station, monument, or marker; 243

(4) Without privilege to do so, knowingly move, deface, 244
damage, destroy, or otherwise improperly tamper with any safety 245
device, the property of another, or the property of the offender 246
when required or placed for the safety of others, so as to 247
destroy or diminish its effectiveness or availability for its 248
intended purpose; 249

(5) With purpose to interfere with the use or enjoyment of 250
the property of another, set a fire on the land of another or 251
place personal property that has been set on fire on the land of 252

another, which fire or personal property is outside and apart 253
from any building, other structure, or personal property that is 254
on that land; 255

(6) Without privilege to do so, and with intent to impair 256
the functioning of any computer, computer system, computer 257
network, computer software, or computer program, knowingly do 258
any of the following: 259

(a) In any manner or by any means, including, but not 260
limited to, computer hacking, alter, damage, destroy, or modify 261
a computer, computer system, computer network, computer 262
software, or computer program or data contained in a computer, 263
computer system, computer network, computer software, or 264
computer program; 265

(b) Introduce a computer contaminant into a computer, 266
computer system, computer network, computer software, or 267
computer program. 268

(7) Without privilege to do so, knowingly deface, damage, 269
destroy, or tamper with a critical infrastructure facility, or 270
otherwise impede or inhibit the facility's operations. 271

(B) As used in this section: 272

(1) "safety-Safety device" means any fire extinguisher, 273
fire hose, or fire axe, or any fire escape, emergency exit, or 274
emergency escape equipment, or any life line, life-saving ring, 275
life preserver, or life boat or raft, or any alarm, light, 276
flare, signal, sign, or notice intended to warn of danger or 277
emergency, or intended for other safety purposes, or any guard 278
railing or safety barricade, or any traffic sign or signal, or 279
any railroad grade crossing sign, signal, or gate, or any first 280
aid or survival equipment, or any other device, apparatus, or 281

equipment intended for protecting or preserving the safety of
persons or property.

(2) "Critical infrastructure facility" has the same
meaning as in section 2911.21 of the Revised Code.

(3) "Organization" has the same meaning as in section
2901.23 of the Revised Code.

(C) (1) Whoever violates this section is guilty of criminal
mischief, and shall be punished as provided in division (C) (2),
~~or (3), or (4)~~ of this section.

(2) Except as otherwise provided in this division,
criminal mischief committed in violation of division (A) (1),
(2), (3), (4), or (5) of this section is a misdemeanor of the
third degree. Except as otherwise provided in this division, if
the violation of division (A) (1), (2), (3), (4), or (5) of this
section creates a risk of physical harm to any person, criminal
mischief committed in violation of division (A) (1), (2), (3),
(4), or (5) of this section is a misdemeanor of the first
degree. If the property involved in the violation of division
(A) (1), (2), (3), (4), or (5) of this section is an aircraft, an
aircraft engine, propeller, appliance, spare part, fuel,
lubricant, hydraulic fluid, any other equipment, implement, or
material used or intended to be used in the operation of an
aircraft, or any cargo carried or intended to be carried in an
aircraft, criminal mischief committed in violation of division
(A) (1), (2), (3), (4), or (5) of this section is one of the
following:

(a) If the violation creates a risk of physical harm to
any person, except as otherwise provided in division (C) (2) (b)
of this section, criminal mischief committed in violation of

division (A)(1), (2), (3), (4), or (5) of this section is a 311
felony of the fifth degree. 312

(b) If the violation creates a substantial risk of 313
physical harm to any person or if the property involved in a 314
violation of this section is an occupied aircraft, criminal 315
mischief committed in violation of division (A)(1), (2), (3), 316
(4), or (5) of this section is a felony of the fourth degree. 317

(3) Except as otherwise provided in this division, 318
criminal mischief committed in violation of division (A)(6) of 319
this section is a misdemeanor of the first degree. Except as 320
otherwise provided in this division, if the value of the 321
computer, computer system, computer network, computer software, 322
computer program, or data involved in the violation of division 323
(A)(6) of this section or the loss to the victim resulting from 324
the violation is one thousand dollars or more and less than ten 325
thousand dollars, or if the computer, computer system, computer 326
network, computer software, computer program, or data involved 327
in the violation of division (A)(6) of this section is used or 328
intended to be used in the operation of an aircraft and the 329
violation creates a risk of physical harm to any person, 330
criminal mischief committed in violation of division (A)(6) of 331
this section is a felony of the fifth degree. If the value of 332
the computer, computer system, computer network, computer 333
software, computer program, or data involved in the violation of 334
division (A)(6) of this section or the loss to the victim 335
resulting from the violation is ten thousand dollars or more, or 336
if the computer, computer system, computer network, computer 337
software, computer program, or data involved in the violation of 338
division (A)(6) of this section is used or intended to be used 339
in the operation of an aircraft and the violation creates a 340
substantial risk of physical harm to any person or the aircraft 341

in question is an occupied aircraft, criminal mischief committed 342
in violation of division (A)(6) of this section is a felony of 343
the fourth degree. 344

(4) Criminal mischief committed in violation of division 345
(A)(7) of this section is a felony of the first degree. 346
Notwithstanding section 2929.31 of the Revised Code, any 347
organization found guilty of complicity in a violation of that 348
division under section 2923.03 of the Revised Code shall be 349
punished with a fine that is ten times the maximum fine that can 350
be imposed on an individual for a felony of the first degree. 351

Sec. 2909.10. (A) No person shall knowingly, and by any 352
means, drop or throw any object at, onto, or in the path of, any 353
railroad rail, railroad track, locomotive, engine, railroad car, 354
or other vehicle of a railroad company while such vehicle is on 355
a railroad track. 356

(B) No person, without privilege to do so, shall climb 357
upon or into any locomotive, engine, railroad car, or other 358
vehicle of a railroad company when it is on a railroad track. 359

(C) No person, without privilege to do so, shall disrupt, 360
delay, or prevent the operation of any train or other vehicle of 361
a railroad company while such vehicle is on a railroad track. 362

~~(D) No person, without privilege to do so, shall knowingly 363~~
~~enter or remain on the land or premises of a railroad company. 364~~

~~(E)~~ Whoever violates division (A) of this section is 365
guilty of railroad vandalism. Whoever violates division (B) of 366
this section is guilty of criminal trespass on a locomotive, 367
engine, railroad car, or other railroad vehicle. Whoever 368
violates division (C) of this section is guilty of interference 369
with the operation of a train. 370

Except as otherwise provided in this division, railroad 371
vandalism; criminal trespass on a locomotive, engine, railroad 372
car, or other railroad vehicle; and interference with the 373
operation of a train each is a misdemeanor of the first degree. 374
Except as otherwise provided in this division, if the violation 375
of division (A), (B), or (C) of this section causes serious 376
physical harm to property or creates a substantial risk of 377
physical harm to any person, the violation is a felony of the 378
fourth degree. Except as otherwise provided in this division, if 379
the violation of division (A), (B), or (C) of this section 380
causes physical harm to any person, the violation is a felony of 381
the third degree. If the violation of division (A), (B), or (C) 382
of this section causes serious physical harm to any person, the 383
violation is a felony of the second degree. 384

~~(F) Whoever violates division (D) of this section is 385~~
~~guilty of criminal trespass on the land or premises of a 386~~
~~railroad company, a misdemeanor of the fourth degree. 387~~

Sec. 2911.21. (A) No person, without privilege to do so, 388
shall do any of the following: 389

(1) Knowingly enter or remain on the land or premises of 390
another; 391

(2) Knowingly enter or remain on the land or premises of 392
another, the use of which is lawfully restricted to certain 393
persons, purposes, modes, or hours, when the offender knows the 394
offender is in violation of any such restriction or is reckless 395
in that regard; 396

(3) Recklessly enter or remain on the land or premises of 397
another, as to which notice against unauthorized access or 398
presence is given by actual communication to the offender, or in 399

a manner prescribed by law, or by posting in a manner reasonably
calculated to come to the attention of potential intruders, or
by fencing or other enclosure manifestly designed to restrict
access;

(4) Being on the land or premises of another, negligently
fail or refuse to leave upon being notified by signage posted in
a conspicuous place or otherwise being notified to do so by the
owner or occupant, or the agent or servant of either;

(5) Knowingly enter, remain on, or operate a drone over
the land or premises of another that contains a critical
infrastructure facility and is beyond a fence, an enclosure
manifestly designed to restrict access, or signs posted in a
manner reasonably calculated to come to the attention of
potential intruders.

(B) It is no defense to a charge under this section that
the land or premises involved was owned, controlled, or in
custody of a public agency.

(C) It is no defense to a charge under this section that
the offender was authorized to enter or remain on the land or
premises involved, when such authorization was secured by
deception.

(D) (1) Whoever violates this section is guilty of criminal
trespass. Criminal trespass in violation of division (A) (1),
(2), (3), or (4) of this section is a misdemeanor of the fourth
degree. Criminal trespass in violation of division (A) (5) of
this section is a misdemeanor of the first degree.
Notwithstanding section 2929.31 of the Revised Code, any
organization found guilty of complicity in a violation of
division (A) (5) of this section under section 2923.03 of the

Revised Code shall be punished with a fine that is ten times the 429
maximum fine that can be imposed on an individual for a 430
misdemeanor of the first degree. 431

(2) Notwithstanding section 2929.28 of the Revised Code, 432
if the person, in committing the violation of this section, used 433
a snowmobile, off-highway motorcycle, or all-purpose vehicle, 434
the court shall impose a fine of two times the usual amount 435
imposed for the violation. 436

(3) If an offender previously has been convicted of or 437
pleaded guilty to two or more violations of this section or a 438
substantially equivalent municipal ordinance, and the offender, 439
in committing each violation, used a snowmobile, off-highway 440
motorcycle, or all-purpose vehicle, the court, in addition to or 441
independent of all other penalties imposed for the violation, 442
may impound the certificate of registration of that snowmobile 443
or off-highway motorcycle or the certificate of registration and 444
license plate of that all-purpose vehicle for not less than 445
sixty days. In such a case, section 4519.47 of the Revised Code 446
applies. 447

(E) Notwithstanding any provision of the Revised Code, if 448
the offender, in committing the violation of this section, used 449
an all-purpose vehicle, the clerk of the court shall pay the 450
fine imposed pursuant to this section to the state recreational 451
vehicle fund created by section 4519.11 of the Revised Code. 452

(F) As used in this section: 453

(1) "All-purpose vehicle," "off-highway motorcycle," and 454
"snowmobile" have the same meanings as in section 4519.01 of the 455
Revised Code. 456

(2) "Land or premises" includes any land, building, 457

structure, or place belonging to, controlled by, or in custody 458
of another, and any separate enclosure or room, or portion 459
thereof. 460

(3) "Organization" has the same meaning as in section 461
2901.23 of the Revised Code. 462

(4) "Drone" means a powered, aerial device to which all of 463
the following apply: 464

(a) It does not carry a human operator and is operated 465
without the possibility of direct human intervention from within 466
or on the device. 467

(b) It uses aerodynamic forces to provide the device lift. 468

(c) It can fly autonomously or be piloted remotely. 469

(d) It can be expendable or recoverable. 470

(e) It is capable of aerial photography or video recording 471
or equipped with a device for that purpose. 472

(5) "Critical infrastructure facility" means: 473

(a) One of the following, if completely enclosed by a 474
fence or other physical barrier that is obviously designed to 475
exclude intruders, or if clearly marked with signs that are 476
reasonably likely to come to the attention of potential 477
intruders and that indicate entry is forbidden without site 478
authorization: 479

(i) A petroleum or alumina refinery; 480

(ii) An electric generating facility, substation, 481
switching station, electrical control center, or electric 482
transmission and distribution lines and associated equipment; 483

(iii) A chemical, polymer, or rubber manufacturing 484

<u>facility;</u>	485
<u>(iv) A water intake structure, water treatment facility,</u>	486
<u>waste water facility, drainage facility, water management</u>	487
<u>facility, or any similar water or sewage treatment system;</u>	488
<u>(v) A natural gas company facility or interstate natural</u>	489
<u>gas pipeline, including a pipeline interconnection, gas</u>	490
<u>compressor station, city gate or town border station, metering</u>	491
<u>station, above-ground piping, regulator station, well, valve</u>	492
<u>site, delivery station, fabricated assembly, or any other part</u>	493
<u>of a natural gas storage facility involved in the gathering,</u>	494
<u>storage, transmission, or distribution of gas;</u>	495
<u>(vi) A telecommunications central switching office or</u>	496
<u>remote switching facility or an equivalent network facility that</u>	497
<u>serves a similar purpose;</u>	498
<u>(vii) Wireline or wireless telecommunications</u>	499
<u>infrastructure, including telecommunications towers and</u>	500
<u>telephone poles and lines, including fiber optic lines;</u>	501
<u>(viii) A port, trucking terminal, or other freight</u>	502
<u>transportation facility;</u>	503
<u>(ix) A gas processing plant, including a plant used in the</u>	504
<u>processing, treatment, or fractionation of natural gas or</u>	505
<u>natural gas liquids;</u>	506
<u>(x) A transmission facility used by a federally licensed</u>	507
<u>radio or television station;</u>	508
<u>(xi) A steel-making facility that uses an electric arc</u>	509
<u>furnace to make steel;</u>	510
<u>(xii) A facility identified and regulated by the United</u>	511
<u>States department of homeland security's chemical facility anti-</u>	512

<u>terrorism standards program under 6 C.F.R. part 27;</u>	513
<u>(xiii) A dam that is regulated by the state or federal government;</u>	514
<u>(xiv) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;</u>	515
<u>(xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in section 1332.21 of the Revised Code.</u>	516
<u>(b) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing that are reasonably likely to come to the attention of potential intruders;</u>	517
<u>(c) With respect to a video service network or broadband or wireless telecommunications infrastructure, the above ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;</u>	518
<u>(d) Any railroad property.</u>	519
<u>Sec. 2911.211. (A)(1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical</u>	520
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(2) No person shall enter, remain on, or operate a drone
over the land or premises of another containing a critical
infrastructure facility with purpose to deface, damage, destroy,
or tamper with the facility, or otherwise impede or inhibit the
facility's operations.

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(B) Whoever violates this section is guilty of aggravated
trespass⁷. Aggravated trespass in violation of division (A)(1)
of this section is a misdemeanor of the first degree. Aggravated
trespass in violation of division (A)(2) of this section is a
felony of the third degree. Notwithstanding section 2929.31 of
the Revised Code, any organization found guilty of complicity in
a violation of division (A)(2) of this section under section
2923.03 of the Revised Code shall be punished with a fine that
is ten times the maximum fine that can be imposed on an
individual for a felony of the third degree.

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(C) As used in this section:

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(1) "Critical infrastructure facility" and "drone" have
the same meaning as in section 2911.21 of the Revised Code.

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(2) "Organization" has the same meaning as in section
2901.23 of the Revised Code.

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Section 2. That existing sections 2307.61, 2909.07,
2909.10, 2911.21, and 2911.211 of the Revised Code are hereby
repealed.

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2909.05 Vandalism.

(A) No person shall knowingly cause serious physical harm to an occupied structure or any of its contents.

(B)

(1) No person shall knowingly cause physical harm to property that is owned or possessed by another, when either of the following applies:

(a) The property is used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation, and the value of the property or the amount of physical harm involved is one thousand dollars or more;

(b) Regardless of the value of the property or the amount of damage done, the property or its equivalent is necessary in order for its owner or possessor to engage in the owner's or possessor's profession, business, trade, or occupation.

(2) No person shall knowingly cause serious physical harm to property that is owned, leased, or controlled by a governmental entity. A governmental entity includes, but is not limited to, the state or a political subdivision of the state, a school district, the board of trustees of a public library or public university, or any other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.

(C) No person, without privilege to do so, shall knowingly cause serious physical harm to any tomb, monument, gravestone, or other similar structure that is used as a memorial for the dead; to any fence, railing, curb, or other property that is used to protect, enclose, or ornament any cemetery; or to a cemetery.

(D) No person, without privilege to do so, shall knowingly cause physical harm to a place of burial by breaking and entering into a tomb, crypt, casket, or other structure that is used as a memorial for the dead or as an enclosure for the dead.

(E) Whoever violates this section is guilty of vandalism. Except as otherwise provided in this division, vandalism is a felony of the fifth degree that is punishable by a fine of up to two thousand five hundred dollars in addition to the penalties specified for a felony of the fifth degree in sections 2929.11 to 2929.18 of the Revised Code. If the value of the property or the amount of physical harm involved is seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars, vandalism is a felony of the fourth degree. If the value of the property or the amount of physical harm involved is one hundred fifty thousand dollars or more, vandalism is a felony of the third degree.

(F) For purposes of this section:

(1) "Cemetery" means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains.

(2) "Serious physical harm" means physical harm to property that results in loss to the value of the property of one thousand dollars or more.

Cite as R.C. § 2909.05

Amended by 129th General Assembly File No. 29, HB 86, §1, eff. 9/30/2011.

Effective Date: 09-30-1998 .

Related Legislative Provision: See 129th General Assembly File No. 29, HB 86, §4 .

2911.21 Criminal trespass.

(A) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(B) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

(C) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.

(D)

(1) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(2) Notwithstanding section 2929.28 of the Revised Code, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, section 4519.47 of the Revised Code applies.

(E) Notwithstanding any provision of the Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by section 4519.11 of the Revised Code.

(F) As used in this section:

(1) "All-purpose vehicle," "off-highway motorcycle," and

"snowmobile" have the same meanings as in section 4519.01 of the Revised Code.

(2) "Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.

Cite as R.C. § 2911.21

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Amended by 128th General Assembly ch.9, HB 2, §101.01, eff. 7/1/2009.

2901.23 Criminal liability of organizations.

(A) An organization may be convicted of an offense under any of the following circumstances:

(1) The offense is a minor misdemeanor committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of the officer's, agent's, or employee's office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of the officer's, agent's, or employee's office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(B) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(C) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(D) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust, or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program.

Cite as R.C. § 2901.23

Amended by 129th General Assembly File No. 79, HB 267, §1, eff. 5/22/2012.

Effective Date: 01-01-1974 .

2305.402 Duties owed to trespassers.

(A) As used in this section:

(1) "Possessor of real property" means the owner, lessee, renter, or other occupant of real property.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person other than a civil action for damages for a breach of contract or another agreement between persons.

(3) "Trespasser" means an individual who, without express or implied authorization, invitation, or inducement, enters real property purely for the individual's own purposes and convenience.

(4) "Child" means an individual under eighteen years of age.

(B) The possessor of real property does not owe a duty of care to a trespasser on the property except to refrain from willful, wanton, or reckless conduct that is likely to cause injury, death, or loss to the person of the trespasser.

(C) Notwithstanding division (B) of this section, the possessor of real property is liable in damages to a trespasser on the property or to any other person in a tort action for injury, death, or loss to the person of the trespasser that allegedly is caused by the possessor of the real property if, at the time the injury, death, or loss allegedly is caused, the possessor knows, or from facts within the possessor's knowledge should know or believe, that the trespasser is in a position of peril on the property, and the possessor of the property fails to exercise ordinary care to avoid causing that injury, death, or loss.

(D)

(1) Notwithstanding division (B) of this section, the possessor of real property is liable in damages to a trespasser on the property who is a child, to a parent, guardian, or custodian of the child, or to any other person in a tort action for injury, death, or loss to the person of the child that allegedly is caused by an artificial condition on the real property if, at the time the injury, death, or loss allegedly is caused, all of the following apply:

(a) The place on the property where the artificial condition exists is a place upon which the possessor of the property knows or has reason to know that children are likely to trespass.

(b) The artificial condition is a condition that the possessor of the property knows, has reason to know, realizes, or should realize will involve an unreasonable risk of death or serious injury to those children.

(c) Because of their youth, the children who are likely to trespass on the property do not discover the artificial condition on the property or do not realize the risk involved in intermeddling with it or coming within the area made dangerous by it.

(d) The utility to the possessor of the property of maintaining the artificial condition and the burden of eliminating the danger involved in maintaining the condition are slight in comparison to the risk of injury, death, or loss to the person of those children.

(e) The possessor of the property fails to exercise reasonable care to eliminate the danger involved in maintaining the artificial condition or to otherwise protect the children who are likely to trespass on the property.

(2) Notwithstanding division (B) of this section, the possessor of real property is liable in damages to an adult person who trespasses on the property or to any other person in a tort action for injury, death, or loss to the person of the adult that allegedly is caused in an attempt by the adult person to rescue a child who trespasses on the property under the conditions specified in division (D)(1) of this section.

(E)

(1) This section does not create a new cause of action or substantive legal right against the possessor of real property.

(2) This section does not affect any civil liability under another section of the Revised Code or the common law of this state of a possessor of real property with respect to trespassers under circumstances not covered by this section or with respect to individuals other than trespassers, including, but not limited to, civil liability to invitees or licensees on the property.

(3) This section does not affect any immunities from or defenses to tort liability established by another section of the Revised Code or available at common law to which a possessor of real property may be entitled in connection with injury, death, or loss to the person or property of a trespasser on the property, including, but not limited to, self-defense or defense of third persons.

(4) This section does not affect any criminal liability that the possessor of real property may have for injury, death, or loss to the person or property of a trespasser on the property.

(5) This section does not affect any immunities from or defenses to civil liability established by another section of the Revised Code or available at common law to which a possessor of real property may be entitled in connection with injury, death, or loss to the person or property of a trespasser on real property owned, leased, rented, or occupied by another person, including, but not limited to, self-defense or defense of third persons.

Cite as R.C. § 2305.402

Added by 129th General Assembly File No.122, SB 202, §1, eff. 9/6/2012.

Related Legislative Provision: See 129th General Assembly File No.122, SB 202, §2 .

2909.07 Criminal mischief.

(A) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the either of the following:

(a) The property of another;

(b) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:

(i) The residential real property is subject to a mortgage.

(ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:

(a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;

(b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.

(B) As used in this section, "safety device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(C)

(1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (C) (2) or (3) of this section.

(2) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A)(1), (2), (3), (4), or (5) of this section creates a risk of physical harm to any person,